



Cochise County, Planning and Zoning Commission

MEETING MINUTES

May 9, 2012 at 4:00

Cochise County Complex
Board of Supervisors, Hearing Room
1415 W. Melody Lane, Building G
Bisbee, Arizona 85603

CALL TO ORDER

The regular meeting of the Cochise County Planning & Zoning Commission was called to order at 4:00 p.m. by Jim Lynch, Chair, at the Cochise County Complex, 1415 Melody Lane, Building G, Bisbee, Arizona, in the Board of Supervisors Board Room.

Mr. Lynch reminded the public to turn off cell phones, use the speaker request forms provided, and to address the Commission from the podium using the microphone. He explained the time allotted to speakers when at the podium. He then explained the composition of the Commission and asked the Commissioners to introduce themselves.

ROLLCALL

Chair Lynch noted the presence of a quorum, and called the roll; seven Commissioners (Martzke, Cervantes, Miller, Lynch, Brauchla, Edie, and Bemis) indicated their attendance, Sanger and Montano were absent.

APPROVAL OF PREVIOUS MONTH'S MINUTES

Mr. Lynch offered corrections to the approval of the March minutes. The Commission members were listed in error.

Motion: Approve the corrected minutes of the April 11, 2012 meeting.

Action: Approve **Moved by:** Mr. Martzke, **Seconded by:** Ms. Edie

Vote: Motion passed (**Summary:** Yes = 5, No = 0, Abstain = 2)

Yes: Mr. Martzke, Mr. Cervantes, Ms. Edie, Mr. Lynch, Mr. Brauchla

No: 0

Abstain: Mr. Bemis and Ms. Miller

CALL TO THE PUBLIC

Chair Lynch opened the “Call to the Public.” Jack Cook spoke about various matters. Chair Lynch closed the “Call to the Public”

NEW BUSINESS

Item 1 – Docket SU-12-07 (Mayne)

This item is a request for approval of a Special Use Authorization for retail gun sales, an animal hospital, and for distribution and storage of propane, on a 4.52-acre site per Section 607.22, 607.06, and 607.18 of the Cochise County Zoning Regulations. The Applicant intends to establish and operate a retail gun store inside the existing feed store, establish an animal hospital inside an accessory building on the property, as well as legitimize the sales of propane (Parcel #107-72-039D).

The subject parcel is located off Moson Road, north of Ramsey Road, in Cochise County, Arizona. The Applicant is Richard Mayne, represented by his son Jarrod, who was present. Senior Planner Beverly Wilson presented the Docket, explaining that Mr. Mayne established JEM’s feed store in 1990 through the Special Use Permit process to sell livestock feed and supplies. The store is located south and east of Sierra Vista in an area of rural residential home sites. Ms. Wilson explained the site plan showing setbacks and describing the locations of the proposed uses. She also showed a support/protest map with a one-mile radius depicting the overwhelming support JEM’s has received, and described a petition received with 92 signatures from around the county. Nine of the ten factors used to analyze special use dockets applied and this request complied with eight. One factor complies with a modification which Staff supports and one factor did not apply. Staff has requested that the request for screening in the rural residential zoning district be waived, as it is currently not being enforced. 15 neighboring property owners within a one-mile radius indicted their support for this request, citing the availability of products and goods in the neighborhood as the reason for support. Strong support was also expressed for the services of an affordable animal hospital. The new uses will not result in new buildings, as they will be conducted inside the existing buildings. These uses will not change the rural character of the neighborhood and minimal traffic impacts are expected to Moson Road. There was one factor against approval: four neighboring property owners oppose this request. Ms. Wilson completed her presentation and asked for questions. Chair Lynch clarified that the animal hospital was for small animals only, and then reserved the option to vote individually on the three special uses.

Mr. Jarrod Mayne then spoke, representing his Father; the owner of JEM’s Feed. He stated that the retail gun store will be small, just over 100-square feet, inside the feed store. Of that space, over half will be taken up with a work bench for gunsmithing. There will be four (4)-four foot display cases, two of which will contain tools, holsters, and other accessories. The remaining two will display guns and ammunition. All of the firearms and ammunition will be stored in an 800-lb. gun safe at the end of each day. The store is already equipped with a surveillance system which can be viewed via internet and an alarm system. The doors are metal and the store windows will be equipped with bars to prevent break-ins. The owner of the proposed gun sales has been approved by the ATF for the sale of firearms; ATF is awaiting approval of this site.

Mr. Mayne then described the proposed animal hospital. He has been working with a group from Phoenix, administering shots for dogs and cats. It will be a small animal hospital and he plans to remodel an existing building on site for the use. The walls will be insulated to prevent noise to the neighborhood and only in extreme circumstances will animals be left overnight. All other animals will be dropped off in the morning and picked up in the afternoon. In the past four-years of working with this group, over 8,000 animals have been vaccinated, many of whom had never received vaccinations because of the high costs. This group works with the Cochise Humane Society and are anxious to begin a less costly spay and neuter clinic.

The propane tank was installed in 1992 – when a State Fire Marshall’s certificate was all that the County required. It was added to the previous requests to simply legitimize it with the County’s new regulations. It was installed by Amerigas and JEM’s continues to deal with them. Mr. Mayne then completed his presentation and asked for questions.

Mr. Martkze asked for clarification on the size of the gun safe. Mr. Mayne assured him that it would be large enough (6’x4’) to contain the ammunition and guns. Mr. Bemis asked if there was a specific focus for the guns. Mr. Mayne said that hunting was the main focus of the gun store, along with gun repair and consignment.

Chairman Lynch opened the Public Hearing. There were no speakers in favor except Mr. Mayne. Mr. John Holder wished to speak against this docket and came to the podium.

Mr. Holder represents the owner of the parcel located at the northeast corner of Ramsey and Moson. His sole concern with this application has to do with firearms and ammunition sales. He is concerned that the close proximity to a store selling firearms may limit options for the owner of this parcel. He could see the property being occupied with a church or school someday and being limited by a firearms store nearby. His other concern is the close proximity of propane and gun powder as it doesn’t seem to be an appropriate mix of services. He is also concerned with the proximity to the border and the limits of law-enforcement services to protect the property and to monitor the sales and services of a gun store. He thinks the services should be located in Sierra Vista where there are more law enforcement officers to offer protection.

There were no questions of Mr. Holder from the commission. Chairman Lynch then closed the public hearing and asked for the Applicant’s rebuttal.

Mr. Mayne addressed the issues of safety and stated that a Department of Corrections Officer lives in the home behind the store and that a Sheriff’s Deputy lives four properties away on Madeira Street and has not expressed any concerns with this gun store. Neither Officer has any problem in assisting with problems that might occur.

Chairman Lynch then asked for Commission discussion. Mr. Martzke indicated that if all the guns and ammunition can be stored in such a small safe, no self-respecting gun thief would bother with breaking in for such a small amount of goods. He doesn’t see any real problem with guns in this store.

Mr. Bemis also addressed the gun issue and discussed ATF’s regulatory power over guns and stated that the store would be safer with guns in it.

Chairman Lynch then called for Staff’s recommendation. Ms. Wilson stated that ATF has been in contact with Staff and is awaiting the results from this afternoon’s meeting. Staff recommends conditional approval for this docket with the standard conditions, a revised site plan, and any

additional permits or applications required by outside agencies. There were no questions of Staff, and no discussion from the Commission.

Chairman Lynch indicated there were 100 in favor and 0 against the propane sales, 98 in favor and 2 against the animal hospital, and 96 in favor and 4 against the gun sales. In order to give some voice to the opposition, he asked to break this into two motions – one for the animal hospital and propane sales, and one for the retail gun store.

Jim Martzke moved to conditionally approve the propane sales and animal hospital. Mr. Cervantes seconded, and with no discussion, the motion passed 7 – 0.

Chairman Lynch asked Staff if the buildings were in place and if they were permitted. Ms. Wilson affirmed that yes, they were permitted.

Mr. Martzke moved to conditionally approve the retail gun shop, and Mr. Brauchla seconded. The vote was 7-0, and the motion was passed.

Motion: Motioned to approve the propane sales and animal hospital special use authorization.

Action: Approve **Moved by:** Mr. Martzke, **Seconded by:** Mr. Cervantes

Vote: Motion passed unanimously (**Summary:** Yes = 7, No = 0, Abstain = 0)

Yes: Mr. Martzke, Ms. Miller, Mr. Cervantes, Chair Lynch, Mr. Brauchla, Mr. Bemis, and Ms. Edie.

Motion: Motioned to approve the retail gun sales special use authorization.

Action: Approve **Moved by:** Mr. Martzke, **Seconded by:** Mr. Brauchla

Vote: Motion passed unanimously (**Summary:** Yes = 7, No = 0, Abstain = 0)

Yes: Mr. Martzke, Ms. Miller, Mr. Cervantes, Chair Lynch, Mr. Brauchla, Mr. Bemis, and Ms. Edie.

Item 2 – Public Hearing Docket SU-12-06 (SSVEC): Senior Planner Keith Dennis presented the Docket, which is a request for a special use authorization for a 1.2 MW Solar Power Plant located in San Simon at 2815 N. Indian Springs Road. The 58.5-acre site houses an existing sub-station owned by SSVEC. The proposed solar power plant will occupy approximately 9-acres of the larger parcel. The solar power plant will utilize photo voltaic technology.

The facility is proposed to be unmanned, once completed. Mr. Dennis stated that there will be minimal traffic. He then reminded the Commission of the recent study session conducted by Mark Apel, which depicted research on appropriate sites for solar power development. From that research, Mr. Dennis showed that this site fit into the ‘high potential’ category for small scale solar facilities. He then stated that one objection was received from a neighboring property owner. Mr. Dennis presented a number of factors in favor of approval, including each of the eight applicable special use evaluation factors comply. This project would allow Cochise County and SSVEC to participate in achieving the Corporation Commission mandates for renewable energy, which are that power providers generate 15% of their power provisions from renewable energy sources by 2025. Mr. Dennis concluded with an aerial overlay of the site plan.

Mr. Lynch asked if there were any questions before proceeding. Being none, he asked Mr. Richard Pereanu, representing SSVEC to speak. He stated that he was employed by SSEVC as a

Sub-station Engineer and gave an explanation and description of the business operation, project plans and cost.

Mr. Ron Bemis asked the Chairman if he would allow him to ask some questions, and he asked if it was true that the Corporation Commission by ruling requires SSVEC to keep the turbines running to meet the peak no matter how much solar and wind energy is being pumped into the system. Mr. Pereanu stated that he was not familiar with that issue.

Mr. Lynch said that he did not receive any requests to speak either for or in opposition; there was no need to open for public hearing or applicant's rebuttal. There being no one who wished to comment, he closed the public hearing and asked for the Planning Director's summary and recommendations.

Mr. Dennis stated that Staff recommends conditional approval, with the following conditions: The Applicant must sign the acceptance of conditions and waiver of value, the Applicant must obtain all necessary permits prior to construction, and that any changes to the special use including a change to a different kind of technology that might have a higher water usage would require review by the Planning Department and may require additional action. This concluded staff recommendations.

Mr. Martzke moved to conditionally approve the Special Use Authorization, Mr. Cervantes seconded the motion. Motion passed (7 – 0).

Motion: Conditionally approve Docket SU-12-06.

Action: Approve **Moved by:** Mr. Martzke, **Seconded by:** Mr. Cervantes

Vote: Motion passed unanimously (**Summary:** Yes = 7, No = 0, Abstain = 0)

Yes: Mr. Martzke, Ms. Miller, Mr. Cervantes, Chair Lynch, Mr. Brauchla, Mr. Bemis, and Ms. Edie.

Item 3 – PUBLIC HEARING, Docket R-12-01 (ALQ): Proposed change to zoning regulations specifically to accessory living quarters.

Mr. Michael Turisk, Planning Manager, gave a description of accessory living quarters (ALQ) as they are currently described in the Zoning Regulations. He described the ways they provide alternative housing choices, and a measure of independence for elderly and disabled family members.

Mr. Turisk explained the current requirements for ALQ permits and what the Zoning Regulations prohibit. He also explained the regulations and standards that the County has for these residential districts. All these requirements are to ensure that ALQ development remains subordinate to the principal use and a situation of overcrowding does not occur. He stated that Staff is proposing the maximum allowable foot print be expanded to 1,100 sq. ft., an increase from the current 850 sq. ft., and expanding the maximum permitted ALQ size by 5% to 75% of the principal dwelling. Currently the maximum size allowed is 70% of the principal dwelling. The other proposed amendment would be to require a parcel owner with an ALQ to live either in the primary dwelling or the ALQ to preclude both units from being rented. Mr. Turisk also stated that if a property owner

has an ALQ and the family need is no longer there and they wish to rent it to the general public they will need to come before the Commission for Special Use Authorization which would allow the neighbors to weigh in.

Staff is recommending that this proposed amendment be forwarded to the Board with the recommendation of approval as proposed. These amendments will be heard by the Board on May 22, 2012.

Chairman Lynch asked the commission if there were any questions.

Mr. Bemis asked Mr. Turisk if someone had a fairly large house and saw a need to have an auxiliary living unit of more than 1,100 sq. ft., could it be approved via the special use authorization process. Mr. Turisk affirmed that Mr. Bemis was correct.

Mr. Martzke asked for clarification on the recommended changes because in one place in the report, the maximum permitted square foot size was proposed to change, yet in another paragraph, the changes were in percentages of the principal dwelling allowed. He asked if both criteria were needed. Mr. Turisk responded that the Commission can amend the proposed changes.

Mr. Bemis then asked if by having both stipulations in there, if it would make staff's job easier in dealing with these requests, and what would make staff's job move smoothest. Mr. Turisk responded that as proposed, it is easier for staff and that any deviation from the maximum footprint or percentage of principle structure would have to be considered by the commission, and it would be subject to a citizen review like any special use permit.

Mr. Cervantes asked if he had a RU-4 property and he had a family member living there and they moved out if it could be rented out, and Mr. Turisk said only with a special use permit. He also said that this mechanism was put in place as an oversight to avoid what he had explained regarding rentals without the input of the commission and community. He stressed that the ALQs, if used as rentals, would result in defacto rezoning.

Mr. Lynch asked what would happen if the commission would not grant a special use, and if the Board of Supervisors agrees, would the ALQ have to be torn down or would it have to stay vacant. Mr. Turisk responded that it could not be rented to the general public.

Mr. Brauchla asked how many ALQs are requested per year. Mr. Turisk answered less than twenty per year.

Mr. Bemis asked how the permitting process works if property moves from owner to owner. Mr. Turisk responded that there would have to be a deed restriction, a modification or another special use permit would be required.

Ms. Carmen Miller asked about establishing an ALQ first and later building the main residence, if this would affect it and Mr. Turisk responded that it could not happen, that there has to be an established residence to build accessory living quarters. He said that standard residential permits can be applied for.

Ms. Pat Edie asked if she had a standard residence and wanted to build a second unit which will be a primary house if this would make the first residence an ALQ. Mr. Turisk responded that they would have to concurrently apply for an accessory living quarters or the option is to get a special use approval.

Mr. Martzke returned to his original question regarding the two requirements and agreed with the report as written. Mr. Turisk confirmed that the proposal is to increase the percentage allowed and the square footage.

Chairman Lynch asked the Commission if they wanted to extend this docket for fine tuning. Mr. Martzke responded that this was not the final draft and this was just a recommendation. Mr. Turisk affirmed that as a zoning regulation, this docket would have to be approved by the Board of Supervisors.

Mr. Martzke made a motion that the Commission recommend approval of the modifications of Docket R-12-01 to the Board of Supervisors.

Mr. Bemis asked Mr. Turisk if transfer of ownership was addressed. Mr. Turisk said that it was not addressed, but that it should run with the property just like any other special use permit.

Mr. Lynch clarified the size issue regarding an ALQ structure. Mr. Lynch asked if there was any further discussion from the Commissioners. There being none, Mr. Martzke moved to forward Docket R-12-01 to the Board of Supervisors with a recommendation of approval. Mr. Bemis seconded, and the motion passed with a 7 – 0 vote.

Motion: Forward Docket R-12-01 to Board of Supervisors with a recommendation of approval.

Action: Approve **Moved by:** Mr. Martzke, **Seconded by:** Mr. Bemis

Vote: Motion passed unanimously (**Summary:** Yes = 7, No = 0, Abstain = 0)

Yes: Mr. Martzke, Ms. Miller, Mr. Cervantes, Chair Lynch, Mr. Brauchla, Mr. Bemis, and Ms. Edie.

Mr. Lynch called for the Planning Directors report.

Mr. Turisk stated that in June there will likely be two items on the Agenda; one is a special use permit for Propane Storage and Distribution in Whetstone, and the other is another Zoning Regulation Amendment dealing with Agricultural Uses.

Mr. Lynch asked the Commissioners if they had anything they needed to bring up and Mr. Bemis said that he wanted to thank the Board of Supervisors and Staff for having the work session prior to this meeting to address the Commissioners concerns. Chair Lynch seconded that.

Chair Lynch asked the Commission if there were any planned absences, and motioned to adjourn.

ADJOURNMENT: Mr. Martzke moved to adjourn, Bemis seconded, and the meeting was adjourned at 5:35 p.m.